

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to adopt Chapter 7, Subchapter 1, Sections 4600-4603, pertaining to Service Charges for non-regulatory services provided by the Department, in Title 3, Division 4, of the Code of Regulations.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 26, 2002.

INFORMATIVE DIGEST//POLICY STATEMENT OVERVIEW

Existing law provides that the Department, for the purpose of enhancing the State's business and trade opportunities, may, upon request, perform non-regulatory services such as export market phytosanitary and product quality analyses, diagnostics, inspections and testing relating to nursery stock, plants, seeds, or plant pests and diseases. The Department may also establish charges sufficient to recover its costs for providing non-regulatory services (Food and Agricultural Code, Section 5851). Existing law also provides that the Department may establish, by regulation, a schedule of charges to cover the Department's costs for the specific services it provides. Existing law also provides that regulations establishing charges adopted by the Secretary shall not be subject to review, approval, or disapproval by the Office of Administrative Law (Food and Agricultural Code, Section 5852).

The proposed action will establish Chapter 7, Miscellaneous Rulings; Subchapter 1, Service Charges; and, Sections 4600 through 4603, the general provisions, disclaimer of liability and financial responsibility, payment for services provided and schedule of charges for the types of non-regulatory services the Department may provide. The effect of the proposed regulations will be to provide authority for the Department to recover its costs for providing requested non-regulatory services and to enable the client that requests the service to understand the Department's costs, billing procedures and timeframes for rendering the services.

The proposed action does not differ from any existing comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the proposed adoption of Chapter 7, Subchapter 1, and Sections 4600 through 4603 does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any State agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to adopt Chapter 7, Subchapter 1, and Sections 4600 through 4603 pursuant to the authority vested by Sections 407, 5851 and 5852 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to adopt Chapter 7, Subchapter 1, and Sections 4600 through 4603 to implement, interpret and make specific Sections 5851 and 5852 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail:

sbrown@cdfa.ca.gov. In his absence, you may contact Kris Peeples at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Undersecretary